

Appl. No. 10/024,167
Amendment Dated March 31, 2004
Reply to Office Action of January 6, 2004

REMARKS/ARGUMENTS

In the Office Action dated January 6, 2004, (1) all claims are provisionally rejected for obviousness-type double patenting over a co-pending application; (2) the claims are provisionally rejected for obviousness-type double patenting; (3) certain claims are rejected under 35 U.S.C. § 103(a); and (4) certain claims are indicating as apparently disclosing allowable subject matter. Applicants respectfully request consideration of the foregoing amendments and the following remarks and arguments, and withdrawal of the remaining rejections.

Status of the Claims

Claims 1-10 are canceled.

Claims 11, 12, 14-17, 20, 27, 31, 33, 35, 37, 38 and 54-57 are currently amended.

Claims 11-38 and 54-58 are pending.

Double Patenting

Claims 10-38 and 54-58 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 and 36-40 of co-pending Application No. 10/024,679. Without acquiescing to any reason stated in the Office Action of July 8, 2003 or January 6, 2004, and without admitting that any or all of the present claims conflict with any claim in co-pending Application No. 10/024,679, in the interest of advancing prosecution in the instant matter, Applicants submit herewith a terminal disclaimer under 37 CFR 1.321(c) to obviate this rejection.

Allowable Claims

Applicants gratefully acknowledge indication in the Office Action of January 6, 2004 that Claims 11, 13, 17-19, 33-36, 38 and 54-57 apparently disclose allowable subject matter. Claims 11, 17, 33, 35, 38, 54 and 57 originally depended from now-canceled claim 10. Accordingly, those claims have been rewritten in independent form incorporating all of the limitations of now-canceled claim 10. The scope of each of those claims is unchanged, and all are believed to be in condition for allowance. Claims 18, 19, 34, 55, 56 and 58 variously depend from apparently-allowable claim 13, 17 or 35, and are therefore also believed to be in condition for allowance.

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Rejections Under 35 U.S.C. § 103(a)

In the Office Action of January 6, 2004, claims 10, 12, 14-16, 20-24, 27-30, 37 and 58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Philippe et al. '471 in view of either Tonkovich et al. '838 or Tonkovich et al. '909, further in view of Kohl et al. Applicants do not concede that this rejection is correct, and reserve the right to later submit argument with respect to any or all of these references, at Applicants option. Nevertheless, noting that claims 11, 13, 17 and 35 appear to be allowable, and are now in independent form, Applicants choose to obviate this ground of rejection by canceling claim 10, without prejudice, and changing the dependency of claims 12, 14-16, 20, 27 and 37 from claim 10 to claim 13. Applicants believe that claim 58 was included among the rejected claims in error, since it depends from apparently-allowable claim 35.

Claims 25, 26, 31 and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Philippe et al. '471 in view of either Tonkovich et al. '838 or Tonkovich et al. '909, further in view of Kohl et al. as applied to claim 10, above, and further in view of Srinivas et al. While Applicants also do not concede the correctness of this rejection, and do not waive the right to later, at Applicants option, submit argument with respect to any or all of these references, it is respectfully submitted that claims 25, 26, 31 and 32 all depend directly or indirectly from apparently-allowable claim 13. Therefore, these claims are also believed to be free of the prior art and in condition for allowance.

Conclusion

Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other arguments with respect to patentability which have yet to be raised, but which may be raised in the future. All of the pending claims are believed to be free of the prior art, and reconsideration and withdrawal of the rejections and objections are respectfully requested. Applicants believe that this is a full and complete response to each rejection, objection and requirement. If any item has been overlooked, Applicants respectfully request the opportunity to supplement this response.

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If any issues remain unresolved, Applicants respectfully request a telephonic Examiner interview to facilitate the resolution of such matters. Should any fees have been inadvertently omitted, or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Deposit Account Number 03-2769 of Conley Rose, P.C., Houston, Texas, and consider this a petition for any necessary extension of time.

Respectfully submitted,


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AGENT FOR APPLICANTS